

REMARKS

Claims 13-26 were examined.

The previously pending claims have been cancelled without prejudice.

New claims are presented.

New independent claim 27 is based on claim 24, amended to clarify that the "information recording medium comprises the first and the second recording layer".

The new independent claim adds the feature that "the second calibration area is located on a radial position where the first calibration area is located (i.e., the radial position of the second calibration area is same as that of the first calibration area)". This amendment finds support on specification page 4, lines 18-21.

The new independent claim also adds the "first recording device" and the "second recording device". This amendment finds support on specification page 22, line 19 to page 23, line 5 and Figure 3.

The new independent claim has removed the previous feature of "recording device" found in prior claim 24.

The new independent claim also adds the "judging device". This amendment finds support on specification page 42 lines, 1-4 and Figure 11 (step S201).

The new independent claim clarifies (i) a first calibrating device for calibrating the power, by recording the

test information into a recording area located on a more outer side than the space area, out of the first calibration area, so that a plurality of area portions each having a predetermined size are sequentially used along the direction from the outer side to the inner side, and (ii) a second calibrating device for calibrating the power, by recording the test information into a recording area located on a more inner side than the space area other side which is opposite to the one side, centered on the space area, out of the second calibration area, so that a plurality of area portions each having a predetermined size are sequentially used along the direction from the inner side to the outer side. This amendment finds support on specification page 23, line 9 to page 24, line 6 and Figure 3.

The new independent claim clarifies that (i) the first or second calibrating device operates (i.e. the calibration process is performed), if the judging device judges that the first and second calibration areas have the space area having the predetermined size, and (ii) the first or second calibrating device does not operate (i.e. the calibration process is not performed), if the judging device judges that the first and second calibration areas do not have the space area having the predetermined size. This amendment finds support on specification page 42, line 26 to page 43, line 5 and Figure 11.

New independent claim 30 is similar to claim 27, but recites a combination of the recording medium and the recording apparatus.

New claim 28 corresponds to prior claim 23.

New claim 29 is an information recording method corresponding to new claim 27.

No new matter is entered by these claims.

Claim Rejections - 35 USC § 112

Claims 18-26 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

The newly presented claims have been drafted to remedy the stated basis of rejection.

Withdrawal of the rejection is solicited.

Claim Rejections - 35 USC § 102

Claims 13, 14-18, 20-22, and 24-26 were rejected under 35 U.S.C. 102(a) as being anticipated by Miyagawa 2004/0264339.

Claim Rejections - 35 USC § 103

Claim 23 was rejected under 35 U.S.C. 103(a) as being unpatentable over Miyagawa, in view of Lee 2004/0264317.

Claim 19 was rejected under 35 U.S.C. 103(a) as being unpatentable over Miyagawa, in view of Hashimoto 5,706,271.

The pending claims are believed to be both novel and non-obvious. Reconsideration and allowance of the claims are respectfully requested.

The newly presented claims clearly recite the concept based on the "Second Recording Operation" (specification page 41, line 1 to page 44, line 10 and Figs. 11 and 12).

More specifically, as disclosed in page 41, lines 9-17, the claimed information recording apparatus is for performing the power calibration (e.g., OPC operation) on the information recording medium which is not provided with the space area (e.g., the unrecordable areas 103U-1 and 103U-2) in the first and second calibration areas (e.g., the power calibration areas 103-1 and 103-2) in advance.

The claimed information recording apparatus is recited as being for performing the power calibration while a recording area into which the test information (e.g., the OPC pattern) can be recorded in the first and second calibration area is determined, as occasion demands, on the information recording apparatus side.

In the process performed by the information recording apparatus disclosed in the claims, as disclosed in page 41, line 25 to page 42, line 13 and page 42, line 26 to page 43, line 12, it is judged by the judging device (e.g., CPU 354) whether or not the test information (e.g. the OPC pattern) can be recorded,

while remaining the space areas (e.g., the unrecordable areas 103U-1 and 103U-2) in positions facing each other.

Namely, it is judged by the judging device whether or not the first and second calibration areas (e.g., the power calibration areas 103-1 and 103-2) have the space areas in positions facing each other even after the test information may be recorded.

As a result of the judgment, when it is judged that the test information can be recorded (i.e.. the first and second calibration areas have the space areas in positions facing each other), the first or second calibration device operates (e.g.. the OPC process is performed).

On the other hand, when it is judged that the test information cannot be recorded (i.e., the first and second calibration areas do not have the space areas in positions facing each other), the first or second calibration device does not operate (e.g., the OPC process is not performed).

Therefore, according to the information recording apparatus disclosed as claimed, and as disclosed in page 43, line 25 to page 44, line 10 of the Specification, it is possible to preferably record the test information (e.g., the OPC pattern) in accordance with an actually performed calibration process (e.g., the OPC process), instead of recording the test information into a predetermined (or fixed) recording area out of the first and second calibration areas.

For example, assumed that the calibration process is performed (i.e., the test information is recorded) relatively less frequently in the first recording layer (e.g. the L0 layer), and on the other hand, the calibration process is performed relatively frequently in the second recording layer (e.g., the L1 layer). If the recording area in which the test information can be recorded is determined in advance, there is a possibility that the calibration process cannot be performed in the second recording layer.

In the information recording apparatus disclosed as claimed, however, even in that case, it is possible to record the test information into a wider recording area and preferably perform the calibration process, in the second recording layer.

These presently claimed features are neither taught nor suggested by Miyagawa alone or in combination with Lee and/or Hashimoto.

More specifically, these references, even when combined, do not teach/suggest the claimed features such that (i) the judging device judges whether the first and second calibration areas have a space area having a predetermined size in positions facing each other (i.e., judges the size of the space area, which can be displaced according to the condition of the actually recorded test information, in the first and second calibration areas) and (ii) the operation of the first or second

calibration device is controlled on the basis of the judgment result.

Since this analysis and argument applies to each of the claims, the claims are all believed to be both novel and non-obvious. Reconsideration and allowance of all the claims are respectfully requested.

This response is believed to be fully responsive and to put the case in condition for allowance. Entry of the amendment, and an early and favorable action on the merits, are earnestly requested. Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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